

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
GREGORY WESTHOFF,

No. Civ ()

Plaintiff,

- against -

STEFANI MIOTTO and KELLY GREEHAN,

Defendants.
-----x

08 CIV. 4336
NOTICE OF REMOVAL

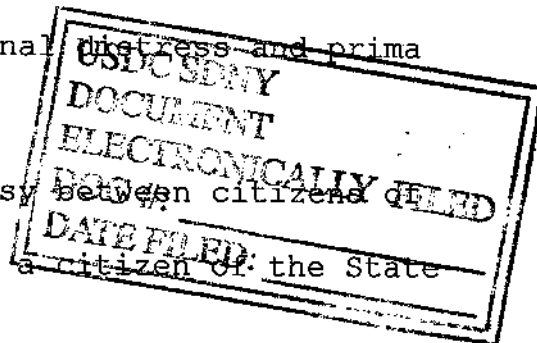
TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

Defendant Stefani Miotto, by her attorneys, Norman M. Block,
P.C., respectfully petitions the Court pursuant to 28 U.S.C.
§1441 as follows:

1. On or about April 7, 2008, the above-captioned action was commenced in the Supreme Court of the State of New York, County of Westchester, and is now pending therein. A trial has had been had therein. A copy of the Summons with Notice served on Stefani Miotto on April 15, 2008 is annexed hereto as Exhibit A. Petitioner has not yet received Plaintiff's complaint nor served an answer thereto.

2. This action seeks damages in excess of \$1,000,000 for malicious prosecution, negligent infliction of emotional distress, intentional infliction of emotional distress and prima facie tort.

3. This action involves a controversy between citizens of different states, in that the plaintiff is a citizen of the State



of Connecticut and both defendants are citizens of the State of New York.

4. This action is one in which the District Courts of the United States have original jurisdiction pursuant to 28 U.S.C. §1332, in that there is complete diversity between the plaintiffs and the defendants and the amount in controversy exceeds \$75,000 exclusive of interest.

5. Written notice of the filing of this Notice of Petition will be given to both the plaintiff and to defendant Greehan promptly after the filing of this Notice.

6. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of Westchester, promptly after the filing of this Notice.

7. By filing this Notice of Removal, Petitioner does not waive any defense which may be available to it, including but not limited to defenses of in personam jurisdiction over defendant Miotto and Statute of Limitations defenses.

8. There is currently an action pending in this Court, Case No. 07 Civ. 1033 (WCC), wherein Stefani Miotto is the plaintiff and Gregory Westhoff is the defendant. This matter should be assigned to the same judge and jointly tried with that matter, since both involve common questions of law and fact.

WHEREFORE, Petitioner requests that this matter now pending in the Supreme Court of the State of New York, County of Westchester, be removed to this Court and consolidated with Case No. 07 Civ. 1033 (WCC), and that the Court grant to Petitioner such other and further relief as to the Court may seem equitable, just and proper.

Dated: Hawthorne, NY
May 6, 2008

A handwritten signature in black ink, appearing to read 'NB', is written over a horizontal line.

Norman M. Block (NB8119)
NORMAN M. BLOCK, P.C.
Attorneys for Defendant Miotto
245 Saw Mill River Road
Hawthorne, NY 10532
(914) 769-3100

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----X
GREGORY WESTHOFF,

Plaintiff,

Index No. 08-07524

-against-

**SUMMONS
WITH NOTICE**

STEFANI MIOTTO and KELLY GREEHAN,

Defendants.
-----X

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to appear in this action and are required to serve a notice of appearance and/or a demand for the complaint on the Plaintiff's attorney within twenty days after the service of this summons, exclusive of the day of service, if this summons is personally delivered to you within the State of New York, or within thirty days after service is complete, if this summons is not personally delivered to you within the State of New York. Your time to appear may be extended as provided in subdivision (b) of CPLR § 3012.

Take notice that this is an action for damages amounting to \$1,000,000.00 for malicious prosecution, negligent infliction of emotional distress, intentional infliction of emotional distress, and prima facie tort caused by the Defendants herein. In case of your failure to appear, judgment may be taken against you by default for the sum of \$1,000,000.00 with interest from March 6, 2008, plus the costs and disbursements of this action.

Plaintiff designates Westchester County as the place of trial. The basis of the venue is the fact that the cause of action accrued in Westchester, and the Defendants reside in Westchester.

DATED: White Plains, New York
April 7, 2008

Very truly yours,

PARISI & PATTI, LLP
Attorneys for Plaintiff
200 Mamaroneck Avenue, Suite 602
White Plains, NY 10601

By: 

Clement S. Patti, Esq.

TO:

Stefani Miotto

Kelly Greehan
27 Windsor Terrace
Yonkers, NY 10710